



Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

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MINUTES October 25, 1999

Request for recommendations and comments on future uses of Conant Land [request of Town Administrator]

Notice of staff performance evaluations due November 12, 1999

ANR Plan: 138 East Street, Map 22, Lots 62, 62B, 63C, 63D & 71, Theodore Treibick and Deborah MacDonald, applicants

ANR Plan: 64 and 72 West Street, Map 18, Lots 24 & 26, Ted Bush applicant

Policy discussion of timely submission of plans and supporting documentation for meeting agendas

Public Hearing: Amendment to Pine Meadow Definitive Subdivision Plan, Maple Street and Davis Road, Map 13, lots 76-1 and 76-2, to delete condition #1 thereby releasing these lots for sale and building purposes. William Costello, applicant

Request for permission to use concrete bounds in Tall Pines Subdivision [request of William McNary]

Continued Public Hearing: Proposed amendment to Section 5.9 of the Zoning Bylaws, Commercial Wireless Communications Facilities (submitted by Wireless Communications Advisory Committee for Special Town Meeting, 11/2/99)

Request by EOEa for nomination of "community treasures" for preservation

Continued Public Hearing: Special Permits for Conservation Cluster and Common Driveway to serve 5 lots at High Woods, 662 West Street, Map 6, Lot 63 (Christopher Fleming, applicant)

Request to reduce the performance bond for the Tall Pines Subdivision, currently set at \$250,000, by an amount up to \$211,922 [request of William Costello]

Consideration of establishment of a joint subcommittee of the Planning Board and Conservation Commission to review interaction between subdivision and wetlands regulations

Chair Tice called the meeting to order at 7:30 p.m. Members Abend, Epstein, Hara and Lane were present. Planning Administrator George Mansfield was also present as well as *Mosquito* reporter David Ives. Holzman arrived at 7:35 p.m.

The minutes of October 12, 1999 were reviewed and Epstein moved to accept the minutes as drafted. Lane seconded the motion and it carried 5-0. Bills were circulated and it was noted that the PB is responsible for the entire amount of the MAPC bill for dues. (*Holzman arrived.*)

Request for recommendations and comments on future uses of Conant Land [request of Town Administrator]

The draft letter to the Selectmen was circulated and revised via e-mail. The Board reviewed and approved the final draft by a consensus vote.

Notice of staff performance evaluations due November 12, 1999

Board members received the performance evaluation forms via e-mail and will return comments to Tice. The PA noted that he has provided a memo to the Board dated today regarding evaluation procedures.

ANR Plan: 138 East Street, Map 22, Lots 62, 62B, 63C, 63D & 71, Theodore Treibick and Deborah MacDonald, applicants

Abutters Jane and Mike Kayat and Dian Cuccinello of East Street were present.

The Board found that previous deficiencies had been addressed but discovered other problems with the ANR plan. Epstein moved not to endorse the ANR plan prepared by R. Wilson and Associates for owners Theodore Treibick and Deborah MacDonald dated 9/16/99 revised on 10/11/99 and 10/20/99 for failure to provide a full and complete submission pursuant to the Carlisle Subdivision Rules and Regulations. Abend seconded the motion and it carried 6-0.

ANR Plan: 64 and 72 West Street, Map 18, Lots 24 & 26, Ted Bush applicant

Although previous deficiencies had been corrected the Board noted that one of lots subject to the land swap was not shown in its entirety. The lots were also misnumbered. Epstein moved not to endorse the ANR plan prepared by R. Wilson and Associates for owners Ted W. and Maria Bush and F. and Marylou Welch dated 9/20/99 and revised on 10/15/99 for failure to submit a full and complete plan satisfying the Carlisle Subdivision Rules and Regulations. Abend seconded the motion and it carried 6-0.

Epstein asked the secretary to note that the Board should consider possible review fees for ANR plans.

Policy discussion of timely submission of plans and supporting documentation for meeting agendas

In order to allow for proper notification and review of meeting topics, the PA suggested that the meeting agenda close at 3:00 p.m. on the Tuesday prior to the meeting date, and that supporting documents be submitted to the PB office by Thursday at 3:00 p.m. This would assure that the complete agenda is posted in the Mosquito for public review, and it would allow the PA and Board members sufficient time to review materials before the meeting. The Board asked Mansfield to draft a policy statement and circulate it to engineers, other boards and the *Mosquito*.

Public Hearing: Amendment to Pine Meadow Definitive Subdivision Plan, Maple Street and Davis Road, Map 13, lots 76-1 and 76-2, to delete condition #1 thereby releasing these lots for sale and building purposes. William Costello, applicant

As an abutter to the property Abend recused himself from acting as a Board member, but asked to participate in the discussion as a member of the Municipal Land Committee. The applicant was not present, but was represented by Joe March of Stamski and McNary. The following members of the public were also present: F. Lewis and J. Donovan of Bedford Road; D. Belanger of Palmer Way; L. Schmitt and F. Nayeri of Audubon Lane; Jay and Luisa Heard, Kathleen Coyle and Bert Williams of Maple Street; and Douglas Stevenson of Cross St. representing the Board of Selectmen.

March explained that during the original public hearing for this subdivision, Costello had understood that only one lot would be set aside for a period of one year. He felt that the final decision requiring two lots for a period of three years was in excess of his requirement as a developer. Therefore, he is now requesting that the two lots be released one year earlier than stated in the original subdivision approval.

Costello could not be present, but sent a letter to the Board dated 10/25/99 stating that the two lots are under agreement and he would appreciate a favorable decision today in order to begin construction before the winter. Another letter dated 10/24/99 was received from Brook Street resident Mary Storrs. Her letter made points for

denying the early release of the lots, and asked for other forms of compensation in the event that early release is approved.

Epstein noted that at the time this subdivision was approved, the Subdivision Rules and Regulations allowed the Board to require land to be set aside for use as parks for a period of up to three years.

Lauren Schmitt said that there must have been a reason that the PB originally required this lot set-aside, and thought there was no compelling reason to release the lots early. Jay Heard agreed.

Tony Mariano speaking as a geologist and member of the Water Resources Committee noted that the Pine Meadows area was an important water resource for the Town and was disappointed that this land was developed. He suggested that the two remaining lots are still important water resources and may link with the aquifer on the O'Rourke land. For this reason, he felt the lots should be preserved as open space.

Bert Williams asked how the restriction was originally set up and whether any conditions had changed since then. It was explained that state statute allows planning boards to require a reasonable amount of land to be set aside for a period of up to three years. At the time of approval, the Carlisle PB required that these two lots be set aside for three years. Although Costello claims he did not agree with this requirement, the PA noted that Costello did not appeal the decision within the 20-day appeal period.

Kathleen Coyle stated that she would prefer to preserve the vista in this area. Abend stated that as an abutter to the property, he would also like to preserve the view, but noted that the Town is not ready to purchase the land for such purposes. He felt that if these lots were purchased by the Town, then they would be used for recreational purposes such as soccer fields and parking. Therefore, he is in favor of releasing the lots.

Louisa Heard felt that the Town should be given the additional year to recognize the value of this parcel as open space, as a water resource area and for its vista.

Mariano noted that the Water Committee is currently in the process of conducting seismic studies on the O'Rourke land and may find that the Maple Street lots are connected as an outwash plain. This would place these lots in a valuable water resource area.

Doug Stevenson noted that the Selectmen were approached regarding this issue in the spring and at that time voted not to recommend early release of the lots on the grounds that there was no compelling reason to do so.

Lauren Schmitt asked how the Town would obtain the lots. The Board explained that Costello would set the purchase price, which would likely be at market value. Louisa Heard asked the boards to be creative in leveraging a reasonable purchase price. Jay Heard thought that perhaps the two lots could be combined into one lot thus making less of an environmental impact on the land.

The PA noted that in response to the Planning Board's informal inquiry in the spring, ConsCom recommended not to release the lots. The RecCom felt the site was good, but too expensive for Town purchase. They recommended negotiating an early release in exchange for a monetary donation to the RecCom.

Epstein moved to continue the hearing to 8:15 p.m. on 11/8/99. Holzman seconded the motion and it carried 5-0-1 with Abend recused.

Request for permission to use concrete bounds in Tall Pines Subdivision [request of William McNary]

Joe March explained that the plans simply state that bounds are to be set, and that the regulations state that granite or a material suitable to the Board be used. March noted that granite bounds weigh considerably more than concrete bounds and are difficult to install. He said that concrete bounds would last 200 years. Deb Belanger asked if they would be visible, but March said that they are flush with the ground. Holzman suggested that March double-check

the plans to see if a specific material is required. Epstein then moved to allow the monuments to be of reinforced concrete pursuant to Sec. 5.G.2 of the Rules and Regulations. Abend seconded the motion and it was approved 6-0.

Continued Public Hearing: Proposed amendment to Section 5.9 of the Zoning Bylaws, Commercial Wireless Communications Facilities (submitted by Wireless Communications Advisory Committee for Special Town Meeting, 11/2/99)

Paul Gill and Don Allen of the Wireless Communications Advisory Committee (WCAC) presented the revised bylaw. The following members of the public were also in attendance: Fred Lewis and J. Donovan of Bedford Road; Deb Belanger of Palmer Way; Lauren Schmitt and Farshad Nayeri of Audubon Lane; Bert Willard of Bellows Hill Rd.; Wendell Sykes of Indian Hill Rd.; Kathleen Booth of River Rd.; Michael Bleday and Jennine Blum of Elizabeth Ridge Rd.; Margaret Franklin of East St.; Arthur J. Veves and George Fardy of Rockland Rd.; Marie Fiedrich of Red Pine Dr.; Alan Lehotsky, Marge Getchell, Fred Rundlett, Susan Carlson and John Forelli of West St.; Terry Herndon of Hillside Dr.; Ken Harte of Estabrook Rd. and Douglas Stevenson of Cross St. (Selectman).

Gill presented a revised draft of the proposed bylaw dated 10/19/99, and proceeded to explain how this draft differs from the previous draft. The new draft allows cellular towers to be installed at a maximum height of 80 ft. in open areas. Over time, the tower may be increased to a maximum height of 120 ft. In wooded areas, a tower may be initially constructed at 10 ft. above the tree canopy and allowed to increase to a maximum height of 150 ft. over time. A 900-ft. setback will be required from all structures. The new draft proposes the establishment of a Wireless Application Advisory Committee (WAAC) to review applications. This committee would then forward applications to the Planning Board, which will be the special permit granting authority. Town Counsel advised the WCAC that restricting cellular towers to public property could be considered spot zoning and violates Constitutional rights. Therefore, this restriction has been removed. The new property line setback requirement will be set at 1.5 times the tower height. Regarding noise, the new draft prohibits diesel generators except for temporary, portable generators used in emergency situations and it requires decibel output to be less than 50dB. A new base and monopole must be constructed to support potential growth to the maximum allowable height. The new draft also requires that a viewshed analysis be conducted.

Wendell Sykes noted that higher towers may be less aesthetically pleasing, but they also keep radiation further from the community. He advised the public to weigh both matters and consider its preference.

Holzman suggested rewording section 5.9.3.5 to require a lot line setback of 1.5 times the maximum allowable height. As this section is drafted, the setback is 1.5 times the initial tower height. The WCAC said that this section was purposely written in this way so that a "fully grown" tower would still fall within the lot lines. The Board and members of the public were concerned that this would not allow for debris flying off the tower and landing beyond the fall zone. Epstein noted that the wording in section 5.9.3.5 is somewhat ambiguous and suggested consulting with Town Counsel to clarify the setback requirement.

There was some confusion regarding the application process. The Board explained that the PB would guide the applicant through the special permit process and conduct a public hearing. Appeals of the special permit decision would be made to land court. Mansfield said that the PB could grant the special permit with conditions. If variances from the zoning bylaws are required, then approval may be conditioned upon obtaining a variance from the ZBA. Otherwise, the ZBA is not involved in the special permitting process.

Wendell Sykes asked if the requirements in the bylaw met federal regulations. Don Allen explained that he has reviewed the Federal Communications Act very carefully to be sure that the proposed bylaw complies. He also noted that a Town may not deny location of a cellular facility simply because of concerns over radiation and health issues.

Michael Bleday asked for clarification regarding the 900-ft. setback versus the 1.5 times tower height setback. Gill explained that a 900-ft. setback is required from all buildings, while a setback of 1.5 times tower height is required from the lot lines of the lot on which the tower is located.

Holzman noted that the proposed bylaw would not allow cellular facilities to be sited within existing structures, such as church steeples. He suggested that two carriers could be located in a church steeple and with two ideal churches in Town, four carriers could be accommodated. He thought that two additional carriers might be located in a flagpole or other camouflaged pole and then the six PCS carriers allowed by law would be provided for in Carlisle. Epstein thought that rather than changing the bylaw at this point, the PB might consider variances to allow cellular facilities to be sited in these questionable areas. Kathy Booth cautioned the Board and the WCAC not to assume that the churches would be amenable to such installations.

Abend noted that a 900-ft. setback is justifiable in residential areas to prevent sight blight and to protect property values. He asked how the WCAC justifies the setback requirements for schools and childcare facilities if health issues may not be considered. He was concerned that this requirement might not be legal. Jennine Blum thought that other neighboring towns have similar setback requirements, and asked if they had been challenged. Don Allen admitted that the Concord wireless bylaw has a similar setback requirement for schools and childcare facilities and they are indeed in the midst of a lawsuit with AT&T regarding this issue.

Mansfield noted that Section 5.9.3.3 restricts cellular facilities to new or existing monopolies only and that these monopolies may be located anywhere in Town. He asked how such towers would "grow." Gill said that the bylaw encourages collocation of multiple carriers, so new applicants must add on to existing facilities before constructing a new monopoly.

Jennine Blum was worried about the value of properties near a cellular tower. She thought that even if facilities are hidden, the community will be aware of their location and there will be concern.

Susan Carlson asked if an applicant could in fact be required to disguise a monopoly as a tree as Holzman suggested. Holzman said that if the Town views aesthetics as a high priority, the applicant could be made aware of this and be required to provide creative solutions.

Abend recommended approval of the draft bylaw noting that while some minor amendments need to be made, it is an improvement over the existing bylaw. He suggested the following conditions: 1) change the lot line setback requirement to 1.5 times the maximum tower height, 2) remove the setback requirement for schools and childcare facilities, 3) revise Section 5.9.3.3. to allow camouflaged facilities and 4) retain the WCAC to continue refining the bylaw for possible revision at spring Town Meeting.

The Board and the WCAC discussed their goals with regard to the bylaw and possible amendments to be made on the floor of Town Meeting. Allen suggested a joint committee meeting between the WCAC and several PB members to prepare such amendments.

Abend moved to draft a report to Town Meeting recommending approval of the proposed Wireless Facilities Bylaw at Fall Town Meeting stressing that it is a vast improvement over the existing bylaw, but noting that there are minor amendments, necessary to improve the bylaw, specifically relating to siting issues and minimizing visual impact. Epstein seconded the motion.

While the Board was concerned that too many amendments on the Town Meeting floor would be confusing, Holzman preferred that revisions be made now rather than in the spring. He was concerned that by spring the PCS carriers will have already applied for special permits and any revisions at that time would not be applicable. Holzman thought that the bylaw could be revised quite simply. Allen agreed that the proposed changes would not require a major revision of the draft bylaw.

Abend asked to amend his motion by adding: **The PB recommends that the WCAC remain an active committee to improve the bylaw before spring Town Meeting.** Epstein seconded the amendment and the Board voted 6-0 to approve the amended motion.

Abend agreed to draft a letter recommending approval, to be reviewed by the Board. The PA will incorporate the letter into a report to Town Meeting. Abend moved and Lane seconded a **motion to close the public hearing.** The motion carried 6-0.

Discussion of proposals for shoulder width and bike/footpaths on Carriage Way, located at 314 East Riding Drive (Preliminary Plan approved 10/12/99) [Request of William Costello]

Mr. Costello could not be present this evening and this discussion was postponed to 11/8/99 at 8:45 p.m.

Request by EOE for nomination of "community treasures" for preservation

The Board decided to postpone this discussion to its next meeting on 11/8/99.

Continued Public Hearing: Special Permits for Conservation Cluster and Common Driveway to serve 5 lots at High Woods, 662 West Street, Map 6, Lot 63 (Christopher Fleming, applicant)

The applicant was present with his engineer Joe March of Stamski and McNary. The following members of the public were also present: Alan Lehotsky, Marge Getchell, Fred Rundlett, Susan Carlson and John Forelli of West St.; Ken Harte of Estabrook Rd. and Deb Belanger of Palmer Way. Because member Epstein had not been present at all sessions of the public hearing he was able to participate in discussion, but his vote could not be considered as one of the five positive votes necessary for approval.

Fleming explained that the common driveway would be called High Woods Lane and that this was approved by both the Fire Chief and Police Chief. He also noted that additional screening consisting of 8-10 ft. white pines has been added to the plan for the benefit of neighbors.

March explained that a roof drain drywell has been added to the design of each house and an infiltration trench will be constructed along the driveway to catch runoff.

Prior to tonight's meeting, March had not seen a letter from the Fire Chief dated 10/14/99, in which he requests a 20,000 gal. fire cistern to be located within 100 ft. from West Street. March suggested that a cistern could be placed at the turnout approximately 250 ft. from West Street. He said that it could not be placed closer to West Street because of the location of existing septic systems.

Deb Belanger asked if a path on West Street could be added in order to link this area with future Town-wide paths. She noted that a path differs from a sidewalk in that it may be four to five feet off the roadway and may be surfaced with materials other than asphalt or concrete, for example, crushed stone. Abend noted that West Street is a scenic road and this request would require a separate public hearing. He also suspected that there might not be sufficient room to provide a path in this area. Abend felt that by providing open space and a cistern, the applicant has already given some benefit to the Town.

Belanger suggested that money could be donated to the Carlisle Safety Trust in lieu of providing the path. She noted that other towns have similar programs and the Bicycle/Pedestrian Safety Committee must first establish funds in order to conduct a feasibility study. Holzman agreed that such a study is necessary, but thought funding should be voted on at Town Meeting.

Ken Harte asked if lot 5 could be reconfigured to give the Town additional open space, while still retaining a buildable lot for the applicant. He noted that this would also simplify the lot lines.

John Forelli objected to locating the proposed cistern adjacent to lot one, which is the lot he is purchasing. March suggested locating the cistern and the pullout at station 4+50. This would place the cistern on the opposite side of the driveway, away from lot lines, but still within the driveway easement.

Epstein moved to approve the conservation cluster special permit and the common driveway special permit as set forth in the plan submitted for High Woods Conservation Cluster submitted by applicant Christopher B. Fleming and Susan B. Dolinger dated 7/9/99, revised on 9/20/99, 10/8/99 and 10/25/99 with the following conditions: 1) that a common driveway maintenance agreement be prepared and approved by the PB; 2) that open space Parcel A as shown on the plan be reconfigured to extend the N62°13'34"W line directly across Lot 5 and to reshape this lot and obtain an additional 10 ft. parallel to the Tenneco easement, retaining the ellipse and approximately 2-2.5 acres for Lot 5; 3) that a 20,000 gal. cistern meeting the fire chief's specifications be shown on the plan on sheet 4 of 5 at approximately station 4+50, and to move the turnout to be approximately adjacent to this cistern, and that this cistern be included in the common driveway easement; 4) that the plan be revised to provide 18-ft. wide pavement in the turnaround area of the cul-de-sac; 5) that Lot 5 be regraded to address potential flooding of the driveway pursuant to Earth Tech's letter dated 10/25/99; 6) that a stamped as-built plan incorporating the drywells be required prior to issuance of occupancy permits; 7) that the applicant contribute \$5,000 to the Carlisle Safety Trust for use towards construction of footpaths in Town as the Bicycle/Pedestrian Safety Committee deems prudent. Approval is granted pursuant to Section 5.5.1 of the Carlisle zoning bylaws in that the Board believes that a sufficient natural resource has been preserved in Parcel A, by preserving significant woods, fields and streams, preserving natural habitats, providing for conservation management, and encouraging linkage of conservation land. Abend seconded the motion.

Tice suggested that the Public Hearing remain open until after the Selectmen have made a decision regarding the Chapter 61 status of this land.

Abend asked the secretary to note that the Board should consider retaining some frontage for paths in future discussions with developers.

Epstein amended his motion to require that the deed for Parcel A be submitted before the final plan is endorsed. Abend accepted the amendment and the Board voted 5-0-1 to approve the amended motion with Epstein abstaining.

The hearing was continued to 9:00 p.m. on 11/8/99.

Request to reduce the performance bond for the Tall Pines Subdivision, currently set at \$250,000, by an amount up to \$211,922 [request of William Costello]

Based on a recommendation from LandTech dated 10/21/99, Abend moved and Holzman seconded a motion to reduce the bond to \$100,000.

Consideration of establishment of a joint subcommittee of the Planning Board and Conservation Commission to review interaction between subdivision and wetlands regulations

The Board agreed that the establishment of such a committee would be helpful and Mansfield, Hara and Abend volunteered to serve on this joint subcommittee.

Housekeeping Issues

Hara encouraged other Board members to attend ceremonies of the official transfer of the O'Rourke Farm to the U.S. Fish and Wildlife Service on 10/30/99.

Realizing that no Board member would be able to attend the Massachusetts Federation Planning & Appeals Boards conference on 10/30/99, the Board asked the PA to request copies of any handouts from ZBA member Terry Herndon or from the Federation.

Board members discussed their frustration over feeling the need to make hasty decisions. Tice noted that enacting a policy to require timely submission of agenda items and supporting material will help alleviate this frustration.

At 11:35 p.m. Lane moved and Abend seconded a **motion to adjourn the meeting**. It was approved 6-0.

Respectfully submitted,

Anja M. Stam
Recording Secretary